

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

AMEREN TRANSMISSION COMPANY OF ILLINOIS	§	
	§	Docket No. 12-0598
Petition for A Certificate of Public Convenience and	§	
Necessity, pursuant to Section 8-406.1 of the Illinois Public	§	
Utilities Act	§	

**THE CITY OF CHAMPAIGN’S AND
THE VILLAGE OF SAVOY’S BRIEF ON EXCEPTIONS
WITH PROPOSED SUBSTITUTE LANGUAGE
AND REQUEST FOR ORAL ARGUMENT**

The City of Champaign and the Village of Savoy file this Brief on Exceptions (BOE) to the Proposed Order issued July 3, 2013.

EXCEPTION NO. 1.

The Proposed Order Errs in Recommending the Approval of ATXI’s Primary Route for the Southern Portion of the Sidney to Rising Line.

In this proceeding, Ameren Transmission Company of Illinois (ATXI or Company) requests a certificate of convenience and necessity (CCN) for a 345 kV transmission line from Sidney to Rising. The line would be constructed west of the City of Champaign (Champaign or City) and south of the Village of Savoy (Savoy or Village). This line is not directly connected to, nor does it form a segment of, the 345 kV line running through Illinois from Indiana to Missouri, which is the primary focus of this docket.

Champaign and Savoy intervened in this docket because the Sidney to Rising line falls within their extra-territorial jurisdictions (ETJs) and is within their primary growth corridors. Champaign and Savoy also intervened because the proposed line is the second high-voltage transmission line in the same geographic area proposed by Ameren or one of its sister companies. The first high-voltage line is the 138 kV line from Bondville (Rising) to Ameren’s Southwest Campus Substation, which was approved less than one year ago by the Illinois

Commerce Commission (ICC or Commission) in *Ameren Illinois Company, Petition for a Certificate of Public Convenience and Necessity*, Docket No. 12-0080, August 15, 2012. The second high-voltage line is the 345 kV line proposed by ATXI in this docket, which originates at Rising and terminates at Sidney.

As will be discussed in this BOE, only a small segment of the two lines from Sidney to Rising would utilize the same structures and right of way. Had Ameren and ATXI coordinated the filings in this Docket No. 12-0598 with the filings in Docket No. 12-0080 and fully shared vital information with this Commission, the community impact caused by both lines would have been greatly diminished. Instead, adoption of the Proposed Order in this docket would result in the certification and construction of two high-voltage transmission lines in an area designed as prime growth for both municipalities, but would include double circuiting and coordinated use of rights of way for only a portion of the two routes.

For Champaign, the impact of the transmission lines is mitigated by the requirement for ATXI to use the same poles and same right of way for the 138 kV line approved in Docket No. 12-0080 and the western (north-south) segment of the 345 kV line requested in this docket. However, for Savoy the Proposed Order's approval of the primary route for the southern (east-west) segment would place two high-voltage transmission corridors close together in its ETJ, resulting in a severe, detrimental impact on the planned, orderly long-term development of Savoy and its economy. This negative impact is not necessary because ATXI's alternate route would provide meaningful physical separation of the 345 kV line from the 138 kV line and the alternate route is outside Savoy's planned growth area. The Commission should reject the Proposed Order's recommendation to adopt ATXI's primary route for the southern leg of ATXI's line.

Champaign filed testimony supporting ATXI's primary route for the western segment that runs north to south just west of Champaign. The City did not comment on the southern (east-west) segment. On the other hand, Savoy did not comment on the western segment but rather offered testimony only on the southern (east-west) segment. Savoy opposes ATXI's primary route for the southern segment and supports the alternate route, which is several miles south of Savoy. Neither municipality took a position as to whether the transmission line is actually needed for reliability or other electrical requirements.

Champaign supports ATXI's primary route for the segment of the line west of Champaign because the Company agreed to follow the final order in Docket No. 12-0080, which required that Ameren "should be directed to use dual circuit structures for the three mile segment of its proposed 138 kV transmission line directly south of Bondville route 10 substation should the planned Sidney to Rising 345 kV transmission line share the same route as the Project approved here." Final Order at 23, *Ameren Illinois Company, Petition for a Certificate of Public Convenience and Necessity*, Docket No. 12-0080, August 15, 2012. By using dual circuits, there would be only one transmission corridor through Champaign's growth area, which permits better utilization of the land and minimizes environmental and visual impacts. Champaign/Savoy Ex. 1.0C, Knight Direct at 2/29-31 and 3/47-54.

Savoy opposes ATXI's primary route for the southern segment, which is located just south of Savoy. Instead, it supports ATXI's alternate route, which is located farther south, because the primary route is within Savoy's only viable growth corridor. Champaign/Savoy Ex. 3.0, Smith Direct at 2/19-3/38. Construction of the 345 kV line on ATXI's primary route would create two high-voltage transmission corridors in the Village's ETJ.

This unacceptable outcome of two high-voltage transmission corridors in Savoy's ETJ is the direct result of Ameren's failure to be open and truthful when it applied for the 138 kV line in Docket No. 12-0080. In that docket, Ameren requested a CCN for a 138 kV line to be located west of Champaign and immediately south of Savoy. The Village intervened in the Ameren docket and opposed what Ameren proposed as the primary route in that docket. Instead, Savoy requested that Ameren place the 138 kV line along what ATXI proposed as its alternate route there—what is essentially its primary route in this docket. (Savoy opposes that same route here because, while it was Savoy's preferred route in Docket No. 12-0080 of the options presented, it would now result in two high-voltage transmission corridors in Savoy's ETJ—a situation that did not exist in the earlier docket.) Ameren vigorously objected to Savoy's request to use the alternate route in Docket No. 12-0080 because the route "included the University of Illinois-Willard Airport, existing residential use areas, and future developments – both proposed and approved as planned." Final Order, Docket 12-0080 at 11. Over the objections of Savoy, the Commission in Docket No. 12-0080 rejected the alternate route and ordered the line closer to Savoy, adversely affecting businesses on the route.

In what can only be termed a flip-flop, in this docket *using the same witness* as in Docket No. 12-0080, ATXI proposed here as the primary route the route that its sister company Ameren vigorously opposed in Docket No. 12-0080. In Docket No. 12-0080, Ameren did not disclose to the Commission that it already had acquired much of the right of way for the alternate route that it opposed there (the primary route proposed here). Only after it was successful in defeating the use of the hidden existing right of way in Docket No. 12-0080, does ATXI now assert that this right of way acquired in the 1970s must be used for the 345 kV line because it is more economical than acquiring new right of way. ATXI inartfully chides Savoy for not altering its

long-range comprehensive growth plan to account for the unused right of way acquired in the 1970s, arguing that Savoy should have known that Ameren had acquired the right of way—the same right of way that Ameren hid from the Commission when it wanted to defeat Docket No. 12-0080’s alternate route.

As the Proposed Order in this docket observes, “[h]ad the Commission had a more complete understanding of the two projects when evaluating its options in Docket No. 12-0080 it is possible that different and arguably better routes would have been selected.” Proposed Order at 128. In other words, had Ameren not withheld information in the earlier docket, the southern segment of the proposed 345 kV Sidney to Rising line could have been dual circuited as is the case for the western segment in this docket. But rather than mitigating the detrimental impact to Savoy’s growth corridor and the community’s long-range planning process, the Proposed Order gives Ameren and ATXI a pass for what the Proposed Order acknowledges as a “concern” that “AIC and ATXI brought separate petitions and apparently make contradictory arguments regarding the merits of the routes.” *Id.* Instead, the Proposed Order allows the construction of the two lines and gives Ameren and ATXI a meaningless warning that in the future failure “to heed this directive may result in dismissal of a petition under either Section 8-406 or 8-406.1 upon discovery of the failure.” *Id.* Rather than giving Ameren and ATXI a free pass, the Commission should reject ATXI’s primary route for the southern segment. ATXI’s alternate route provides an opportunity to avoid permanent damage to Savoy’s long-term planning process and avoid the economic damage which will result from two high-voltage transmission corridors so close together in the only viable growth corridor for the Village.

In its Proposed Order, the Administrative Law Judges lament the fact that the intervenors and staff were given only three weeks to propose alternate routes while ATXI “had at least seven

years to prepare the massive Illinois Rivers Project and file it at a time of its choosing.” Proposed Order at 7. More to the point, Ameren knew when it filed Docket No. 12-0080 that it had already obtained the right of way for a transmission route that it not only chose not to use for its 138 kV route, but also failed to disclose in that application so that the Commission was not able to determine the true costs of the 138 kV line. Now, because it is in ATXI’s perceived interest, ATXI argues that the previously acquired right of way helps tip the economic analysis of the proposed 345 kV route to its primary route and away from the alternate route it proposes in this docket. In fact, had Ameren been forthright, the 138 kV and 345 kV lines could have been constructed more economically using dual circuit structures on one right of way. Instead, ATXI wants to bifurcate Savoy’s only growth area with two high-voltage transmission line corridors—a condition that is not in the long-term interest of Savoy, the Savoy community, or the Savoy economy. It provides no benefit to Savoy for the Proposed Order to warn Ameren and ATXI that, if they “make contradictory arguments regarding the merits of the routes” in future cases, those future petitions may be dismissed. Proposed Order at 128. If duplicity is grounds to reject a petition in the future, it should be sufficient to dismiss this petition as well.

Champaign and Savoy request that the Proposed Order be modified to approve ATXI’s primary route for the western (north-south) segment, reject ATXI’s primary route for the southern (east-west) segment, and approve ATXI’s alternate route for the southern (east-west) segment as modified by Dr. Ragheb.

PROPOSED SUBSTITUTE LANGUAGE

6. Commission Conclusion

~~While~~ Some of the criteria addressed by the parties do not favor one route over another (such as environmental impacts and impacts on historical resources), While a superficial review

would indicate a ~~the remaining criteria support~~ a finding that ATXI's Primary Route should be adopted for this segment of the Illinois Rivers Project as the least cost route, any finding in this regard is tainted by the actions of Ameren and ATXI in Docket No. 12-0080 and this Docket. As Savoy demonstrated, Ameren prevented this Commission from fully exploring and making a proper determination in Docket No. 12-0080 as to the route chosen in that docket. As a result, Ameren deprived the Commission and the parties from consolidating construction of the 138 kV line with the 345 kV line, except for the western segment. The use of the same structures, dual circuiting, and the same right of way would have lessened the economic and environmental impact of both lines. Had Ameren properly informed the Commission that it had acquired the right of way for sections of the southern route in Docket No. 12-0080, then the Commission could have acted appropriately. The Commission cannot condone the actions of Ameren and ATXI in these two proceedings. While the Commission's actions can overrule the orderly development of municipalities acting in their ETJs, the Commission is reluctant to do so, especially when there are viable alternatives to such drastic action. While the ~~The Primary Route is 9.6 miles shorter than the~~ Alternate Route is slightly longer than the Primary Route, the Commission must consider community values and the community's economy, as well as mere length of the line. Community values, health of the community's economy, and the actions of ATXI and Ameren weigh against approval of the proposed Primary Route for the southern (east-west) line segment of the Sidney to Rising line in this Docket. Therefore, the Commission rejects ATXI's Primary Route for the southern (east-west) segment and adopts the Alternate Route as modified by Dr. Ragheb. ~~, will be \$24.6 million cheaper to construct, correspondingly cheaper to operate and maintain, appears to affect fewer landowners and homes, and utilizes existing utility corridor whereas the Alternate Route does not.~~ The proposed double circuit and

use of existing utility corridor along the Primary Route's western (north-south) segment will also minimize visual impact and mitigate impact on development. Use of existing corridors should also facilitate access for maintenance purposes. ~~Aside from the view of Savoy, the Primary Route also enjoys greater community acceptance. The Commission appreciates Savoy's concerns about its development options, but can not ignore the weight of the record favoring the Primary Route.~~

In light of the discussion of the project in Docket No. 12-0080 and the project at hand, the Commission is concerned with the transmission system planning and coordination of ATXI and its affiliates. Had the Commission had a more complete understanding of the two projects when evaluating its options in Docket No. 12-0080, it is possible that different and arguably better routes would have been selected. ATXI and its affiliates are directed to provide in future petitions seeking approval of transmission facilities a more complete picture of the future transmission facilities for the areas in question. For example, if ATXI or an affiliate requests a certificate for a 138 kV line in a given area, ~~it would be appropriate for~~ ATXI must proactively inform the Commission to know if it ATXI or an affiliate plans to construct a new substation, 138 kV or 345 kV line in the area in the relatively near future. The Commission ~~disapproves~~ is concerned that AIC and ATXI brought separate petitions and ~~apparently make~~ made contradictory arguments regarding the merits of the routes. Failure to ~~heed~~ abide by this directive ~~may~~ will result in dismissal of a petition under either Section 8-406 or 8-406.1 upon discovery of ~~the failure~~ any violation of this directive.

With regard to the construction of new substations adjacent to the existing substations in Sidney and Rising, the Commission understands the issue to be simply whether space exists in the existing substations to accommodate new equipment. This question should be resolved

through discovery because whether sufficient space exists should be easily discernible. Why this has not occurred here is uncertain. Instead, the Commission is faced with ATXI's claims that it needs more space than is present in the existing substations and Staff's argument that sufficient space is available now. Perhaps had more time been available to pursue this issue in discovery and otherwise consider such details, this issue could have been avoided. Absent a more persuasive showing by ATXI in this record that the existing substations in Sidney and Rising lack sufficient space, the Commission concludes that it will not grant ATXI approval to construct new substations in these locales.

REQUEST FOR ORAL ARGUMENT

Pursuant to 83 Ill. Admin. Code 200.850, Champaign and Savoy request that they be granted oral argument if Commission grants oral argument on any issue relating to the Sidney to Rising line.

Respectfully submitted,

/s/ Richard C. Balough

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CERTIFICATE OF SERVICE

I, Richard C. Balough, do hereby certify that a copy of the foregoing City of Champaign and Village of Savoy's Brief on Exceptions has been sent via electronic means to the parties listed on the e-Docket service list on this 18th day of July, 2013.

/s/ Richard C. Balough